



ARIZONA HOUSE OF REPRESENTATIVES

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Senate: JUD DP 5-2-0-0 | 3rd Read DPA 18-11-1-0

House: JUD DP 5-3-0-0 | 3rd Read DPA 37-21-1-0-1

Final Pass: 18-10-2-0-0

SB 1085: time limitation; DUI prosecutions

Sponsor: Senator Kavanagh, LD 3

Transmitted to the Governor

Overview

Requires prosecutions for driving under the influence (DUI) or extreme DUI offenses involving a collision that resulted in serious physical injury or death to be commenced within two years after the date that the prosecuting agency either actually discovers the offense, or should have actually discovered the offense with reasonable diligence, whichever occurs first.

History

Statutes of Limitations for Criminal Prosecutions

While certain offenses, such as homicide or conspiracy to commit homicide, among others, entail no statute of limitations and may be prosecuted at any time, the criminal code limits the time in which the state may commence a prosecution for other offenses as follows:

- 1) For a class 2 through 6 felony, seven years, and for class 6 felonies, without regard to whether the offense is ultimately designated a misdemeanor;
- 2) For a misdemeanor, one year; and
- 3) For a petty offense, six months.

For these purposes, a prosecution is commenced when the state files a charging document (i.e., an indictment, information or complaint). If a charging document is filed before the limitation period and is dismissed for any reasons, a new prosecution may be commenced within six months after the dismissal becomes final, even if the limitation period has expired at the time of the dismissal or will expire within six months of the dismissal. The period of limitation does not run:

- 1) During any time when the accused is absent from Arizona or has no reasonably ascertainable place of abode within Arizona; or
- 2) For a *serious offense* as defined in [A.R.S. § 13-706](#), during any time when the identity of the person who commits the offense or offenses is unknown ([A.R.S. § 13-107](#)).

Furthermore, the state must commence a prosecution for *causing serious physical injury or death by moving violation* within two years after actual discovery of the offense, or the date that actual discovery should have occurred with the exercise of reasonable diligence, whichever occurs first ([A.R.S. § 28-672](#)).

DUI Offenses

A person commits DUI, a class 1 misdemeanor offense, by driving or being in actual physical control of a vehicle in Arizona under any of the following circumstances:

- 1) While under the influence of intoxicating liquor, any drug (regardless of whether the person is or has been entitled to use the drug under Arizona law), a vapor releasing substance containing a toxic substance or any combination of liquor, drugs or vapor releasing substances if the person is impaired to the slightest degree;

- 2) If the person has an alcohol concentration of 0.08 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle;
- 3) While there is any drug defined in [A.R.S. § 13-3401](#) or its metabolite in the person's body, except if the person is using a drug as prescribed by a medical practitioner who is licensed pursuant to A.R.S. Title 32 and who is authorized to prescribe the drug; or
- 4) If the vehicle is a commercial motor vehicle that requires a person to obtain a commercial driver license as defined in [A.R.S. § 28-3001](#) and the person has an alcohol concentration of 0.04 or more ([A.R.S. § 28-1381](#)).

A person commits extreme DUI, also a class 1 misdemeanor, by driving or being in actual physical control of a vehicle in Arizona and the person has an alcohol concentration as follows within two hours of driving or being in actual physical control of the vehicle and the alcohol concentrations results from alcohol consumed either before or while driving or being in actual physical control over the vehicle:

- 1) 0.15 or more but less than 0.20; or
- 2) 0.20 or more ([A.R.S. § 28-1382](#)).

Statute requires a law enforcement officer of public employee who, in the regular course of duty, investigates a motor vehicle accident resulting in bodily injury, death or damage to the property of any person in excess of \$2,000 or the issuance of a citation to complete a written report of the accident as follows:

- 1) Either at the time of and at the scene of the accident or after the accident by interviewing participants or witnesses; or
- 2) Within 24 hours of completing the investigation ([A.R.S. § 28-667](#)).

Provisions

1. Requires that a prosecution for DUI or extreme DUI involving a collision that resulted in serious physical injury or death, as identified in a written accident report completed pursuant to [A.R.S. § 28-667](#), be commenced within two years after one of the following dates, whichever occurs first:
 - a) The time that the state or political subdivision actually discovers the offense; or
 - b) The time that the state or political subdivision should have actually discovered the offense with the exercise of reasonable diligence. (Sec. 2, 3)
2. Makes conforming changes. (Sec. 1, 3)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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